

Learner appeals procedure

Parent policy

Learner Appeals Policy #500-1-12

Purpose

This document outlines procedures related to Bow Valley College learner appeals, excluding grade appeals.

Scope

This policy applies to all Bow Valley College learners, administration, faculty, and staff. The provisions of this procedure are only available to learners. This procedure does not apply to grade appeals (refer to Learner Grade Appeals Procedure) or to admission appeals (refer to Admissions Policy and Procedure). It also does not apply to Freedom of Information and Privacy Protection disclosures (as per the *Freedom of Information and Privacy Protection Act and Regulation*).

Compliance

Employees, contractors, and learners are responsible for knowing, understanding, and complying with Bow Valley College procedures to the extent that procedures relate to their position, employment, or enrolment at the College.

Procedures

1. General

- 1.1. When a learner disagrees with an academic (excluding grade appeals) or non-academic decision that has been made in regards to that learner, this procedure outlines measures which may be taken to address the issue.
- 1.2. Any costs incurred by the learner in the appeal process are the learner's responsibility.
- 1.3. This procedure is not the means of addressing disagreements with policies, procedures, regulations or other types of rules.
- 1.4. Exceptions to this procedure can be made by the Vice President, Learner Services and CFO, or the Vice President, Academic, depending on the basis of the appeal, in situations of extenuating circumstances, provided the exceptions align with the general principles of this procedure and the associated policy.

2. Informal Means for Resolution

Before requesting a formal appeal, learners are strongly encouraged to communicate directly with the individual or body whose decision is in question, either in person or in writing, in order to attempt resolution of the issue. This step is often the most effective way to resolve an issue.

3. Learner Request for an Appeal

- 3.1. In the event that the dispute has not been resolved through informal means, the learner may request an appeal. The request for appeal is to be made in writing in the format required by the College and include the following information:
 - 3.1.1. A brief explanation of the decision being appealed. If the decision was communicated to the learner in writing, a copy of that communication should be submitted with the appeal request.
 - 3.1.2. Reasons why the learner believes the decision that is being appealed was not correct or appropriate to the situation.

- 3.1.3. Identification of at least one of the following ground(s) of appeal upon which the learner is relying:
 - 3.1.3.1. Medical or compassionate reasons
 - 3.1.3.2. Mitigating Circumstances
 - 3.1.3.3. Procedurally Unfair
 - 3.1.3.4. Undue Hardship
 - 3.1.3.5. New Information
- 3.1.4. An explanation of the steps taken to attempt to resolve the issue prior to the learner's request for appeal.
- 3.1.5. A copy of any documentation the learner wishes to include in support of the appeal.
- 3.1.6. A statement of the desired outcome of the appeal and the remedy sought by the learner.
- 3.2. If the appeal request does not mention reasons related to appropriate grounds, the appeal request will be denied.
- 3.3. Appeal requests must be submitted to the Office of the Registrar within 1 month of when the learner was notified of the decision which is being appealed.
- 3.4. The Offices of the Registrar and Learner Success Services will provide assistance to learners who may lack the language or literacy skills to complete an appeal request on their own. The Students' Association of Bow Valley College may also provide assistance to learners wishing to do an appeal request.

4. Appeals Process

- 4.1. Responsibility for Appeals Process
The Office of the Registrar is responsible for administering the process for academic appeals (excluding grade appeals) and non-academic appeals.
- 4.2. Notification of the Appeal Process
The Office of the Registrar shall, within 5 business days of receipt of the learner's written request for an appeal, notify the learner of the appeal procedure to be followed. Such notification shall indicate the steps in the appeal process based on the steps outlined below.
- 4.3. Steps in the Appeal Process
 - 4.3.1. The learner may be requested to discuss the issue with relevant representatives of the department that made the decision in question.
 - 4.3.2. If the above step does not result in resolution of the issue, the learner will request a meeting with the Associate Dean or Director responsible for the area that made the decision to have the Associate Dean or Director hear the appeal. In the case of an academic withdrawal, this will be the Dean of the program area.
 - 4.3.3. The learner is expected to complete the above step(s) within 5 business days of being informed about the expected steps. Failure to do so may result in the learner appeal being closed and the learner being denied a formal hearing with the Learner Appeal Committee. The department representatives involved are expected to facilitate the above steps above in a timely manner.
 - 4.3.4. In the event that the above steps have not resulted in a resolution of the issue that is satisfactory to the learner, the learner is entitled to a formal Learner Appeal Committee hearing at the learner's request. The formal appeal hearing shall be scheduled approximately 10 business days from the date of the receipt of the learner's request to have a formal hearing. As soon as possible, the learner and the department shall be informed of the following:
 - 4.3.4.1. date and time of hearing
 - 4.3.4.2. sufficient particulars of the nature of the proceedings so as to allow the learner and department to prepare relevant evidence and arguments
 - 4.3.4.3. the deadline for submitting written evidence for the hearing (see below)
 - 4.3.4.4. the right for both the learner and the department to have a second person in attendance

4.4. Membership of the Learner Appeals Committee

- 4.4.1. It is the responsibility of the Learner Appeals Committee Chair to constitute an appropriate Learner Appeals Committee to hear an appeal.
- 4.4.2. A Learner Appeals Committee will be constituted as follows:
 - 4.4.2.1. the Registrar (Chair)
 - 4.4.2.2. a Dean
 - 4.4.2.3. a learner representative selected by the Students' Association of Bow Valley College
- 4.4.3. All 3 members of the committee must be present in order for the hearing to take place.
- 4.4.4. The role of the committee members is to be objective, independent, and neutral. They are not acting as advocates for the College or learner.
- 4.4.5. The members of the Learner Appeals Committee shall not have a conflict of interest or possibility of bias in the case being heard: they should have no direct involvement in the matter that is being appealed, not be from the academic department of the program in which the learner is enrolled, not be in the department associated with the decision being appealed, and not be otherwise in a position of conflict of interest with the learner or the matter being appealed. Also, the Dean and the learner representative should be from different departments.
- 4.4.6. In the event that the Registrar does not meet the above criteria for a particular case, the Vice President, Learner Services and CFO shall appoint another individual to serve in the Registrar's place.
- 4.4.7. Upon being informed of who the members of the committee will be, the learner has 2 business days to challenge who the members are. In order for the challenge to be considered, the learner must provide information about the reason for the challenge and the reason must be on grounds of the potential for bias or conflict of interest.

4.5. Formal Learner Appeal Hearing

- 4.5.1. A formal learner appeal hearing involves both the learner and the spokesperson for the department responsible for the decision being appealed. Both the learner and the spokesperson are given opportunities to present their case to the committee and respond to information presented by the other party.
- 4.5.2. Any written evidence that either the department spokesperson or the learner wishes to use in the appeal hearing must be provided to the Chair of the Learner Appeals Committee 4 business days before the appeal. It is the responsibility of the Chair to forward that information to the other party expeditiously.
- 4.5.3. At least 3 business days prior to the formal learner appeal hearing, the learner is to be provided with information about the hearing:
 - 4.5.3.1. the names, positions, and program areas or departments of the members of the Learner Appeals Committee and other staff supporting the committee that will be at the hearing
- 4.5.4. The learner has the right to be accompanied by one individual (e.g. a member of the Students' Association Executive, or a fellow learner) at the hearing, provided that the Chair of the Learner Appeals Committee is notified in advance of the name of the individual and their relationship to the learner. The learner is expected to make his or her own representation to the Learner Appeals Committee and the role of the other individual is to provide moral support to the learner and act as an observer of the appeal, and is to refrain from participating in the hearing proceedings. Representation of the learner by another person shall be allowed only in exceptional, extenuating circumstances upon prior consent of the Chair of the Learner Appeals Committee.
- 4.5.5. The department representative of the decision-making area has the right to bring one additional person as an observer but that person is expected to refrain from participating in the hearing proceedings.

- 4.5.6. The learner or a College official involved in the appeal may request that an additional resource person(s) be asked to join the committee as a non-voting participant. A resource person is someone, preferably from within the College, with expertise in an area that is pertinent to the appeal (e.g. counsellor, person with knowledge of Aboriginal justice, learning disabilities specialist). The resource person(s) is chosen by the Chair of the Learner Appeals Committee. This provision is subject to the availability of an appropriate resource person. The resource person must meet the criteria to which the other committee members are subject to regarding conflict of interest or bias. The resource person is present both during the hearing and the committee's deliberation following the hearing.
- 4.5.7. In the hearing, both the learner and the department representative have the right to present their cases and be provided with the opportunity to respond to information and comments made by the other party.
- 4.5.8. The Chair of the Learner Appeals Committee has the right to dismiss any accompanying individual who is disruptive during the hearing.
- 4.5.9. The decision of the committee is made on the basis of the majority of votes from committee members. All members have the right to vote.
- 4.5.10. The information disclosed and documentation submitted during the appeal and the committee's deliberations are to be kept confidential by committee members and resource persons.
- 4.5.11. The decision of the Learner Appeals Committee is final.

5. Notification of the Appeal Decision

- 5.1. The learner is to be notified of a formal appeal decision verbally or by email within 2 business days of the hearing. A letter (hard copy or electronic) stating the formal appeal decision must be sent to the learner within 5 business days of the hearing. The letter must provide the reason(s) for the decision made. The department representative is to be provided with copies of the same information.
- 5.2. In exceptional circumstances, such as when further investigation is required, these notification timelines may be extended but a decision should still be made and communicated as quickly as possible. Where the timelines are extended, the learner and the department representative involved are to be informed and to be provided with the expected date for notification of the decision.

6. Learner Activities during the Appeal Process

- 6.1. In situations where the learner has submitted a written appeal regarding a withdrawal or suspension from a program or specific courses, the learner is entitled to continue participation in classes from which she or he was withdrawn or suspended. This includes the right to continue participation in subsequent courses in a program in which the learner is registered. The learner must explicitly obtain permission to continue participating in courses from the Program Chair responsible for the learner's program. Permission will not be granted for continued participation in:
 - 6.1.1. work placement courses (e.g. practicums, co-ops) where the appeal involves either withdrawal/suspension from a work placement course or a course which is a requirement for a work placement course.
 - 6.1.2. courses for which it is deemed that a learner's attendance might put at risk the well-being or safety of others or if participation in the courses could result in disruption to the learning environment.
- 6.2. In situations where the learner has appealed a withdrawal or suspension from a program, the learner is also entitled to normal use of College services and participation in College activities during the appeal period, provided that the learner's presence is not considered to put at risk the well-being or safety of others.

- 6.3. If the outcome of the appeal is that the suspension or withdrawal is upheld, the learner must discontinue participation in those classes when notified of the appeal outcome. In the case of withdrawal from a program, the learner is also no longer eligible for College services or activities that are intended for learners only.

7. Grievance of Appeal Decision

- 7.1. In exceptional circumstances, a learner has the right to grieve a formal academic appeal decision to the Vice President Academic or a non-academic appeal decision to the Vice President Learner Services and CFO. The learner may grieve a formal appeal decision only if
 - 7.1.1. there is new relevant information which was not available to the learner at the time of the appeals process **or**
 - 7.1.2. the provisions of the Learner Appeals Policy or Procedures have allegedly not been followed.
- 7.2. The learner must submit a written statement citing the reason for the grievance to the respective Vice President
 - 7.2.1. within 5 business days of being informed of the formal appeal decision if the grievance claims that the Learner Appeals Policy or Procedure was not followed
 - 7.2.2. with 10 business days of learning of new relevant information which was not available at the time of the appeals process
- 7.3. Notwithstanding the foregoing, a grievance cannot be made later than a year from the formal appeal decision that is being grieved.
- 7.4. The Vice President is the last level of appeal and the Vice President's decision is deemed final and not subject to appeal.

8. Recordkeeping of Learner Appeals

- 8.1. All learner appeal requests as set out in this procedure and the outcomes of those appeals are to be tracked. It is the responsibility of the Office of the Registrar to keep records of academic and non-academic learner appeal requests, excluding grade appeal requests.
- 8.2. Where the outcome of a learner appeal has an impact on a learner's student record and/or has significance to the learner's status, etc. (e.g. a changed grade, overturned learner withdrawal), reference to the appeal decision should be noted on the learner's record on the student information system. In other cases, the learner appeal request and resulting outcome are not normally noted on the student record.

Definitions

Medical or compassionate reasons:

Significant unforeseen, unusual circumstances beyond the learner's control in either personal or family life that may affect performance related to College expectations. Examples include medical illness or injury which has significant impact, death of a close relative, other adverse experience that has significant impact on the learner.

Mitigating circumstances:

Facts that while not negating a particular unwelcome or negative decision, provide relevant reasons why the learner acted or performed in a particular manner that support reducing the severity of the decision made.

Procedurally unfair:

Inconsistency with one or more of the rules of natural justice, including by way of example but without limitation:

- a) one or more decision makers who participated in making the decision appealed from were not impartial;
- b) in the case of an academic or non-academic decision, reasons for the decision appealed from were not provided to the learner; or
- c) the decision appealed arose from an unfair, inappropriate or inaccurate application of a policy, procedure, rule, or calculation.

Undue hardship:

Circumstances or decisions that present an unreasonable or disproportionate burden or obstacle for the learner.

See Policy for further definitions.

Data sheet

Responsible officer

The Director, Enrolment Services and Registrar.

Relevant dates

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Verified by	Office of the President, March 2022*

Related policy

Learner Appeals Policy #500-1-12

Associated policies, procedures, and guidelines

See parent policy (Learner Appeals Policy)
Learner Grade Appeals Procedure #500-1-12B
Admissions Policy and Procedure #500-1-2

Related legislation

Alberta Post-Secondary Learning Act
Freedom of Information and Privacy Protection Act and Regulation

Attachments

N/A